In the Supreme Court of the United States

OCTOBER TERM, 1923

ORIGINAL NO. 3.

STATE OF NEW MEXICO, COMPLAINANT,

vs.

STATE OF TEXAS, DEFENDANT.

RESPONSE OF THE STATE OF TEXAS TO MOTION OF L. M. CRAWFORD FOR LEAVE TO FILE BRIEF AND ADDITIONAL EVIDENCE HEREIN.

Now comes the defendant, the State of Texas, and in response to the motion filed herein by L. M. Crawford and his attorney for leave to file a brief as *amicus curiae* says:

I.

The defendant, the State of Texas, objects to the granting of leave to file said motion for the following reasons:

(a) While the motion states that L. M. Crawford and his attorney desire to file the brief as *amicus curiae* yet an examination of the motion discloses that said L. M. Crawford is a claimant of certain lands involved in the litigation.

(b) That while the motion is for the purpose of filing a brief, yet it is desired by the said L. M. Crawford as intervenor to submit to the court additional evidence in the case for and in his behalf based upon an affidavit attached to a motion just filed in this court in behalf of attorneys for the State of New Mexico, complainant herein, wherein the complainant asks leave of the court to be allowed to take said designated affidavit as additional evidence in behalf of said complainant.

(c) Because the motion is in substance and effect an intervention by L. M. Crawford in the above cause and is therefore a suit by an individual against the State of Texas which is specifically prohibited by the Eleventh Amendment to the Federal Constitution.

(d) Because to permit such intervention would thereafter give ground for innumerable claimants to become parties to the suit, each with the right to introduce testimony and to be heard in argument on the merits of the controversy between the State of New Mexico and the State of Texas with the result of delaying the litigation further and hindering the State of Texas in its proper defense heretofore made.

(e) Because if such motion to file brief as *amicus curiae*, in effect a motion to intervene, is granted, it will result in said intervenor and the State of New Mexico, complainant, introducing and offering as evidence testimony of a witness whom the State of Texas is denied the right to cross examine.

Wherefore, the defendant objects to the filing of said motion and to any and all applications for intervention herein for the reasons above specified.

STATE OF TEXAS:

W. A. KEELING,

Attorney General of Texas.

JNO. C. WALL,

WALACE HAWKINS,

Assistant Attorneys General.

W. W. TURNEY,

Special Counsel.

Solicitors for Defendant, State of Texas.